

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:) CHAPTER 7
)
TIP TOP TUX, LLC, *et al.*) CASE NO. **23-57716-JRS**
)
Debtors.) (Jointly Administered)

TRUSTEE’S APPLICATION TO EMPLOY AUCTIONEER

COMES NOW Jason L. Pettie, as Chapter 7 Trustee (“**Trustee**”) for the bankruptcy estates of Tip Top Tux, LLC, Heights, Inc., Tuxedo Holdings, Inc., Tuxedo Holdings MIN, Inc., Suit Up, Inc., Xedo, Inc., and Tuxdo Holdings CLE, Inc. (collectively, the “**Debtors**”), and hereby moves the Court for entry of an order authorizing Trustee to employ Bullseye Auction & Appraisal, LLC to serve as auctioneer pursuant to 11 U.S.C. § 327(a), and in support thereof, respectfully shows this Court as follows:

1. The Debtors filed voluntary petitions for relief under Chapter 7 of Title 11 of the United States Code on August 11, 2023 (the “**Petition Date**”), initiating the above-styled cases.

2. On August 14, 2023, Trustee was appointed to the Case as the interim Chapter 7 trustee pursuant to 11 U.S.C. § 701(a)(1).

3. At the commencement of the Case, the Debtors’ bankruptcy estates (the “**Estates**”) were created under 11 U.S.C. § 541(a), and the Estates include all of the Debtors’ legal or equitable interests in property as of the commencement of the Case and any interest in property that the Estates acquires after commencement of the Case. 11 U.S.C. § 541(a)(1) and (7).

4. Trustee is under a duty to collect and reduce to money the property of the Estates. 11 U.S.C. § 704(a)(1).

5. Prior to the Petition Date, the Debtors operated several retail locations that

primarily rented formalwear, and Trustee seeks to efficiently market and liquidate the Debtors' inventory as well as the equipment and vehicles that were used in the operation of the Debtors' businesses.

6. This professional employment application (the "**Application**") is supported by the verified statement of Scott Schwartz, which is attached hereto as Exhibit "A".

7. Bullseye Auction & Appraisal, LLC (the "**Auctioneer**") has no relation or connection to the Debtors, and employs one or more duly licensed auctioneers. Auctioneer does not represent any interest adverse to the Estates and is a disinterested person as that term is defined in 11 U.S.C. §101(14).

8. The Auctioneer understands that all fees, commissions, and expenses are subject to approval by this Court after application, notice and hearing thereon. For a complex matter such as marketing and liquidating the Debtors' Estates, the Auctioneer anticipates conducting three separate auctions, as well as engaging with potential buyers to directly purchase some of the Debtors' assets. Auctioneer would normally be compensated with a commission of twenty percent (20%) of the gross sales price for any asset other than vehicles, which would be compensated at a ten percent (10%) commission. In addition to its commission, the Auctioneer would also receive reimbursement for actual out-of-pocket expenses (which shall not exceed \$12,500). The Auctioneer shall not receive any buyer's premium.

9. Due to the numerous locations where the Debtors' property is located, and the substantial amount of time that it will take the Auctioneer to organize and catalogue all of the Debtors' assets, Trustee believes that the requested compensation arrangement is reasonable, and Trustee believes that employment of the Auctioneer pursuant to the terms requested hereinabove is in the best interest of the Estate.

WHEREFORE, Trustee prays that this Court (a) grant authority to employ the Auctioneer to market and liquidate the Debtors' personal property and (b) grant such other and further relief as is just and proper.

Respectfully submitted,

TAYLOR ENGLISH DUMA LLP
Attorneys for Trustee

By /s/ Jason L. Pettie

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Georgia Bar No. 574783

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STATE OF GEORGIA COUNTY OF GWINNETT	In Re: TIP TOP TUX, LLC, et al. Chapter 7 Case No. 23-57716-JRS
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Exhibit "A"

VERIFIED STATEMENT UNDER RULE 2014

Personally appeared before the undersigned officer duly authorized by law to administer oaths, SCOTT KENNETH SCHWARTZ, Georgia License Number 2643, of the firm of BULLSEYE AUCTION & APPRAISAL, LLC, who after being duly sworn, on oath deposes and says:

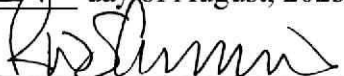
- 1) I am a member of Bullseye Auction & Appraisal, LLC, an auction and appraisal firm fully bonded and operating under Georgia License Number 2643 and having offices at 6470 East Johns Crossing, Suite 160, Johns Creek, Georgia 30097. My email address is scott@bullseyeauctions.com, and my phone number is 770-544-7479.
- 2) To the best of my knowledge:
 - (a) I am and every person in my firm is a "disinterested person" as that term is defined by 11 U.S.C. § 101(14) with regard to the debtors in these bankruptcy cases:
 - (b) Neither I nor any member of my firm:
 - i. Holds or represents an interest adverse to the bankruptcy estate of Debtor or Debtor;
 - ii. Has had any business, professional or other connections up to the date of this Affidavit with the Debtor(s), its creditors, or any other party in interest of which I am aware, and their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States Trustee within the purview of Rule 2014 of the Federal Rules of Bankruptcy Procedures and 11 U.S.C. § 327. Disclosure is made, however, that my firm and I have previously represented other bankruptcy trustees as auctioneer in unrelated matters; or
 - iii. Is related to any Judge of this Court, or so connected now or in the past with any Judge of this Court as to render such appointment improper.

FURTHER AFFIANT SAYETH NAUGHT.

BULLSEYE AUCTION & APPRAISAL, LLC

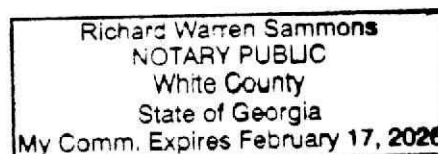
By 
SCOTT KENNETH SCHWARTZ

Sworn to and subscribed before me this
29th day of August, 2023



Notary Public

My Commission Expires: 2/17/2026



CERTIFICATE OF SERVICE

This is to certify that I have mailed a copy of the foregoing *TRUSTEE'S APPLICATION TO EMPLOY AUCTIONEER* by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery to:

Office of the U.S. Trustee
Richard B. Russell Federal Building
75 Ted Turner Drive, SW, #362
Atlanta, GA 30303

William A. Rountree
Rountree Leitman Klein & Geer, LLC
Century Plaza I, Suite 350
2987 Clairmont Road
Atlanta, GA 30329

Tip Top Tux, LLC
500 Floyd Blvd.
Sioux City, IA 51101

Heights, Inc.
140 James Aldridge Blvd
Atlanta, GA 30336

Tuxedo Holdings CLE, Inc.
500 Floyd Blvd.
Sioux City, IA 51101

Tuxedo Holdings MIN, Inc.
500 Floyd Blvd.
Sioux City, IA 51101

Tuxedo Holdings, Inc.
500 Floyd Blvd.
Sioux City, IA 51101

Xedo, Inc.
500 Floyd Blvd.
Sioux City, IA 51101

Suit Up, Inc.
500 Floyd Blvd.
Sioux City, IA 51101

This 31st day of August, 2023.

By: /s/ Jason L. Pettie
Jason L. Pettie
Ga. Bar No. 574783
Attorneys for Chapter 7 Trustee